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16 **UNITED STATES DISTRICT COURT**

17 **DISTRICT OF NEVADA**

18 SIDNEY FRIEL, individually,

19 Plaintiff,

20 vs.

21 SMITH'S FOOD & DRUG CENTER, INC.,
22 d/b/a SMITH'S, a Foreign Corporation;
23 DOES I through X, inclusive; and ROE
24 CORPORATIONS I through X, inclusive;

25 Defendants.

26 Case No.: 2:24-cv-00088-RFB-MDC

27 **PROPOSED STIPULATION AND
28 ORDER TO EXTEND DISCOVERY
PLAN AND SCHEDULING ORDER
(SECOND REQUEST)**

29 Plaintiff, SIDNEY FRIEL, by and through her counsel of record, JOSEPH J. WIRTH, ESQ.,
30 ASH MARIE BLACKBURN, ESQ., JOSEPH W. GUINDY, ESQ., and TYLER A. BIXBY, ESQ.
31 of BLACKBURN WIRTH, LLP, and Defendant SMITH'S FOOD & DRUG CENTER, INC., by
32 and through its counsel of record, POOJA KUMAR, ESQ. of COOPER LEVENSON, hereby
33 submit the instant Stipulation and Order to Extend the Discovery Plan and Scheduling Order
34 (Second Request) pursuant to LR IA 6-1 and LR 26-3 as follows:

35 **I.**

36 **PROCEDURAL HISTORY**

37 This lawsuit involves allegations that Plaintiff Sidney Friel suffered serious injuries related
38 to a slip and fall at the Smith's store located at 6855 N. Aliante Pkwy in North Las Vegas, Nevada.

Said store is owned and operated by Defendant Smith's Food and Drug Center, Inc. As a result of the slip and fall incident, on November 15, 2023, Plaintiff filed her Complaint against Defendant Smith's Food and Drug Center, Inc. in the Eighth Judicial District Court for Clark County, Nevada. On January 9, 2024, Defendant filed its Answer denying Plaintiff's allegations and denying all liability for the claimed injuries. On January 11, 2024, Defendant filed a Notice of Removal and removed the matter to this court based on diversity jurisdiction. On January 25, 2024, Plaintiff filed a Substitution of Counsel, replacing the firm Sandoval James & Walkenshaw with Blackburn Wirth, LLP. On February 9, 2024, the parties participated in the FRCP 26(f) conference and filed a Proposed Joint Discovery Plan and Scheduling Order which was entered by this court on February 22, 2024.

II.

DISCOVERY COMPLETED

To date, Plaintiff has completed the following discovery:

- Plaintiff's FRCP 26 Initial Disclosure, served February 9, 2024;
- Plaintiff's Proposed Joint Discovery Plan and Scheduling Order served on February 22, 2024;
- Plaintiff's Initial List of Witnesses and Production of Documents Pursuant to FRCP 26(a)(1) served on April 2, 2024;
- Plaintiff's First Set of Interrogatories to Defendant served April 23, 2024;
- Plaintiff's First Set of Requests for Production to Defendant served April 23, 2024;
- Plaintiff's First Set of Requests for Admissions to Defendant served May 15, 2024;
- Plaintiff's Response to Defendant First Set of Requests for Admission served June 3, 2024;
- Plaintiff's Response to Defendant First Set of Requests for Production of Documents served June 3, 2024;
- Plaintiff's Response to Defendant First Set of Interrogatories served June 3, 2024;
- Deposition of employee/witness Catherine Graham, taken June 26, 2024;

- Plaintiff's First Supplemental FRCP 26 Disclosure, served July 3, 2024;
- Plaintiff's Supplemental Response to Defendant First Set of Interrogatories served August 13, 2024;
- Plaintiff's Second Supplemental FRCP 26 Disclosure, served August 13, 2024;
- Plaintiff's Second Set of Interrogatories to Defendant served August 16, 2024.

To date, Defendant Smith's Inc. has completed the following discovery:

- Defendant's Request for Admissions to Plaintiff, served April 26, 2024;
 - Defendant's Request for Production of Documents to Plaintiff, served April 26, 2024;
 - Defendant's First Set of Interrogatories to Plaintiff, served April 26, 2024;
 - Defendant's First Supplement to its Initial Disclosure Statement served May 10, 2024;
 - Defendant's Answers to Plaintiff's First Set of Interrogatories served June 3, 2024
 - Defendant's Responses to Plaintiff's First Set of Requests for Production served June 3, 2024;
 - Deposition of Plaintiff, taken August 14, 2024;
 - Defendant's Second Supplement to its Initial Disclosure Statement served August 22, 2024;
 - Defendant's Supplemental Responses to Plaintiff's First Set of Requests for Production served August 22, 2024;
 - Defendant's Third Supplement to its Initial Disclosure Statement served August 27, 2024.

III.

DISCOVERY REMAINING TO BE COMPLETED

- Depositions of additional fact witnesses;
 - Depositions of Plaintiff's treating providers;
 - FRCP 30(b)(6) deposition of Smith's;
 - Inspection of the subject premises;
 - Initial expert designations;

- 1 • Rebuttal expert designations;
- 2 • Depositions of Initial and Rebuttal Experts;
- 3 • Additional FRCP 26 Disclosures;
- 4 • Additional written discovery.

5 This is a complex premise liability claim involving an alleged slip and fall on a foreign
6 substance. The parties have diligently worked to move the case forward, including the exchange of
7 initial disclosures, a fact witness deposition, Plaintiff's deposition, multiple sets of written
8 discovery, and disclosure of copies of Plaintiff's medical records. After exchanging Initial
9 Disclosures pursuant to FRCP 26(f), the parties also sent and responded to written discovery
10 requests. Plaintiff has only conducted one deposition thus far, but that deposition had to be
11 conducted first and was difficult to coordinate. The deponent, Catherine Graham, was the primary
12 employee responsible for the area in which Plaintiff slipped and fell. She was also in the aisle when
13 the subject incident happened, thus her testimony would be the most relevant and beneficial to this
14 case. However, she no longer works for Smith's and has since joined the armed forces, changed her
15 last name through marriage, and moved to Georgia. As such, a good amount of time and resources
16 were spent coordinating locating her and coordinating a time to conduct her deposition.

17 The deposition of Catherine Graham finally went forward on June 26, 2024. The deposition
18 revealed additional information that needed to be produced by Defendant, including the potential
19 identification of an employee seen on video surveillance, as well as additional documentation
20 related to the maintenance of the store on the date of incident. The parties have worked together
21 diligently through numerous conferences to identify and disclose all of the additional information
22 necessary to push this litigation forward.

23 Plaintiff's deposition went forward on August 14, 2024. Plaintiff is also still treating for
24 alleged injuries sustained in the incident. As such, additional medical records are being gathered
25 and disclosed as quickly as possible. Substantial discovery remains to be completed, as outlined
26 above. The parties have also discussed early resolution of this matter and believe that the requested
27 extension will allow more fruitful negotiations to take place.

28

1 Further, the parties have met and conferred regarding an inspection of the subject premises,
 2 scheduling that inspection, the FRCP 30(b)(6) deposition of Defendant Smith's, and the scheduling
 3 of that deposition. As it stands, the parties have agreed to the scope of both the inspection and the
 4 FRCP 30(b)(6) deposition. Additionally, the inspection is scheduled to go forward on October 2,
 5 2024 at 10 AM PST. The FRCP 30(b)(6) deposition has not yet been scheduled but the parties are
 6 actively working together to do so.

7 With the current discovery deadlines rapidly approaching, specifically the initial expert
 8 deadline, and a fair amount of discovery yet to be completed, the parties have agreed to a sixty (60)
 9 day discovery extension to complete the remaining discovery as well as any necessary motion
 10 practice. As expert witnesses will be necessary as it relates to liability, causation, and damages, the
 11 requested extension is certainly necessary and not requested for any dilatory motive. This extension
 12 will allow the parties to complete all outstanding discovery, move this case closer to trial, and
 13 hopefully reach an early resolution.

14 **IV.**

15 **PROPOSED DISCOVERY SCHEDULE AND TRIAL DATE**

	Current Date	Proposed Date
Discovery Deadline:	12/06/2024	02/04/2025
Motions to Amend Pleadings/	CLOSED	CLOSED
Add Parties:		
Initial Expert Disclosures:	10/07/2024	12/06/2024
Rebuttal Expert Disclosures:	11/08/2024	01/07/2025
Dispositive Motions:	01/05/2025	03/06/2025
Joint Pre-Trial Order:	02/04/2025	04/07/2025
/ / /		
/ / /		
/ / /		

1 This is the second request for an extension of time in this matter and no trial date will be
2 impacted by the extension as no such trial date has been set. The parties submit that the reasons set
3 forth above constitute good cause for the requested extension.

4 Dated this 20th day of September, 2024.

5 Dated this 20th day of September, 2024.

6 **BLACKBURN WIRTH, LLP**

7 **COOPER LEVENSON**

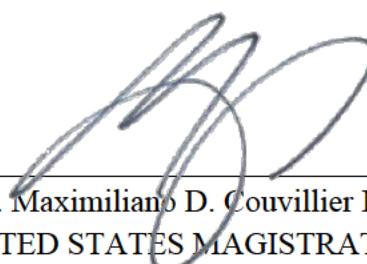
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Attorney for Defendant

14 **ORDER**

15 **IT IS SO ORDERED.**

16 DATED this 24th day of September, 2024.

17 
18 Hon. Maximiliano D. Couvillier III
19 UNITED STATES MAGISTRATE JUDGE